

percent or more of the quantity by weight of which consists of, or is derived directly or indirectly from, one or more of the products specified in sections 4561 and 4571, or of the oils, fatty acids, or salts specified in section 4511.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963, see section 501(a) of Pub. L. 87-456, title V, May 24, 1962, 76 Stat. 78.

[§§ 4591 to 4597. Repealed. Pub. L. 94-455, title XIX, § 1904(a)(15), Oct. 4, 1976, 90 Stat. 1814]

Sections, comprising subchapter F, “Oleomargarine”, were struck out in the repeal of this chapter by Pub. L. 94-455.

Section 4591, act Aug. 16, 1954, ch. 736, 68A Stat. 545, related to imposition of a tax on all oleomargarine imported from foreign countries.

Section 4592, act Aug. 16, 1954, ch. 736, 68A Stat. 545, related to definitions of oleomargarine, manufacturer, wholesale dealer, and retail sales.

Section 4593, act Aug. 16, 1954, ch. 736, 68A Stat. 546, related to exemptions to tax imposed by section 4591.

Section 4594, act Aug. 16, 1954, ch. 736, 68A Stat. 546, related to packing requirements for manufacturers of oleomargarine.

Section 4595, act Aug. 16, 1954, ch. 736, 68A Stat. 546, related to wholesale and retail selling requirements for oleomargarine.

Section 4596, act Aug. 16, 1954, ch. 736, 68A Stat. 547, related to filing of bonds by manufacturers of oleomargarine.

Section 4597, act Aug. 16, 1954, ch. 736, 68A Stat. 547, related to books and returns of wholesale dealers and manufacturers.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94-455 set out as an Effective Date of 1976 Amendment note under section 4041 of this title.

[§§ 4601 to 4603. Repealed. Pub. L. 87-456, title III, § 302(d), May 24, 1962, 76 Stat. 77]

Section 4601, acts Aug. 16, 1954, ch. 736, 68A Stat. 548; Sept. 2, 1958, Pub. L. 85-859, title I, §119(b)(4), 72 Stat. 1286, related to applicability of certain tariff provisions.

Sections 4602, 4603, act Aug. 16, 1954, ch. 736, 68A Stat. 548, related to contravention of trade agreements by certain taxes.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963, see section 501(a) of Pub. L. 87-456, title V, May 24, 1962, 76 Stat. 78.

CHAPTER 38—ENVIRONMENTAL TAXES

Subchapter		Sec. ¹
A.	Tax on petroleum	4611
B.	Tax on certain chemicals	4661
C.	Tax on certain imported substances	4671
D.	Ozone-depleting chemicals, etc.	4681

¹Section numbers editorially supplied.

Editorial Notes

PRIOR PROVISIONS

A prior chapter 38, consisting of sections 4521 to 4603 and relating to import taxes, was repealed by Pub. L. 87-456, title III, §302(d), May 24, 1962, 76 Stat. 77, and Pub. L. 94-455, title XIX, §1904(a)(15), Oct. 4, 1976, 90 Stat. 1814.

AMENDMENTS

1989—Pub. L. 101-239, title VII, § 7506(b), Dec. 19, 1989, 103 Stat. 2369, added item for subchapter D.

1986—Pub. L. 99-499, title V, §515(b), Oct. 17, 1986, 100 Stat. 1769, added item for subchapter C.

Pub. L. 99-499, title V, §514(a)(2), Oct. 17, 1986, 100 Stat. 1767, struck out item for subchapter C.

1980—Pub. L. 96-510, title II, §231(b), Dec. 11, 1980, 94 Stat. 2804, added item for subchapter C.

Pub. L. 96-510, title II, §211(a), Dec. 11, 1980, 94 Stat. 2797, added chapter 38 and analysis of subchapters consisting of items A and B.

Subchapter A—Tax on Petroleum

Sec.

4611. Imposition of tax.

4612. Definitions and special rules.

§ 4611. Imposition of tax

(a) General Rule

There is hereby imposed a tax at the rate specified in subsection (c) on—

(1) crude oil received at a United States refinery, and

(2) petroleum products entered into the United States for consumption, use, or warehousing.

(b) Tax on certain uses and exportation

(1) In general

If—

(A) any domestic crude oil is used in or exported from the United States, and

(B) before such use or exportation, no tax was imposed on such crude oil under subsection (a),

then a tax at the rate specified in subsection (c) is hereby imposed on such crude oil.

(2) Exception for use on premises where produced

Paragraph (1) shall not apply to any use of crude oil for extracting oil or natural gas on the premises where such crude oil was produced.

(c) Rate of tax

(1) In general

The rate of the taxes imposed by this section is the sum of—

(A) the Hazardous Substance Superfund financing rate, and

(B) the Oil Spill Liability Trust Fund financing rate.

(2) Rates

For purposes of paragraph (1)—

(A) the Hazardous Substance Superfund financing rate is 16.4 cents a barrel, and

(B) the Oil Spill Liability Trust Fund financing rate is—

(i) in the case of crude oil received or petroleum products entered before January 1, 2017, 8 cents a barrel, and

(ii) in the case of crude oil received or petroleum products entered after December 31, 2016, 9 cents a barrel.

(3) Adjustment for inflation

(A) In general

In the case of a year beginning after 2023, the amount in paragraph (2)(A) shall be increased by an amount equal to—

- (i) such amount, multiplied by
- (ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting “calendar year 2022” for “calendar year 2016” in subparagraph (A)(ii) thereof.

(B) Rounding

If any amount as adjusted under subparagraph (A) is not a multiple of \$0.01, such amount shall be rounded to the next lowest multiple of \$0.01.

(d) Persons liable for tax

(1) Crude oil received at refinery

The tax imposed by subsection (a)(1) shall be paid by the operator of the United States refinery.

(2) Imported petroleum product

The tax imposed by subsection (a)(2) shall be paid by the person entering the product for consumption, use, or warehousing.

(3) Tax on certain uses or exports

The tax imposed by subsection (b) shall be paid by the person using or exporting the crude oil, as the case may be.

[e] Repealed. Pub. L. 117-169, title I, § 13601(a)(1), Aug. 16, 2022, 136 Stat. 1981]

(f) Application of Oil Spill Liability Trust Fund financing rate

(1) In general

Except as provided in paragraph (2), the Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply on and after April 1, 2006, or if later, the date which is 30 days after the last day of any calendar quarter for which the Secretary estimates that, as of the close of that quarter, the unobligated balance in the Oil Spill Liability Trust Fund is less than \$2,000,000,000.

(2) Termination

The Oil Spill Liability Trust Fund financing rate shall not apply after December 31, 2025.

(Added Pub. L. 96-510, title II, § 211(a), Dec. 11, 1980, 94 Stat. 2797; amended Pub. L. 99-499, title V, §§ 511(a), 512(a), (b), Oct. 17, 1986, 100 Stat. 1760, 1761; Pub. L. 99-509, title VIII, § 8032(a), (c)(1), (2), Oct. 21, 1986, 100 Stat. 1957, 1958; Pub. L. 100-647, title VI, § 6108, Nov. 10, 1988, 102 Stat. 3712; Pub. L. 101-221, § 8(a), Dec. 12, 1989, 103 Stat. 1891; Pub. L. 101-239, title VII, § 7505(a), (b), Dec. 19, 1989, 103 Stat. 2363; Pub. L. 101-508, title XI, § 11231(a)(1)(B), (2), (b), Nov. 5, 1990, 104 Stat. 1388-445; Pub. L. 109-58, title XIII, § 1361, Aug. 8, 2005, 119 Stat. 1058; Pub. L. 110-343, div. B, title IV, § 405(a)(1), (b)(1), (2), Oct. 3, 2008, 122 Stat. 3860, 3861; Pub. L. 113-295, div. A, title II, § 221(a)(12)(I), Dec. 19, 2014, 128 Stat. 4039; Pub. L.

115-123, div. D, title I, § 40416(a), Feb. 9, 2018, 132 Stat. 152; Pub. L. 116-94, div. Q, title I, § 134(a), Dec. 20, 2019, 133 Stat. 3234; Pub. L. 116-260, div. EE, title I, § 117(a), Dec. 27, 2020, 134 Stat. 3051; Pub. L. 117-169, title I, § 13601(a), Aug. 16, 2022, 136 Stat. 1981.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

Editorial Notes

CODIFICATION

Amendments by Pub. L. 99-509, title VIII, § 8031(a), (b), and (d)(1), Oct. 21, 1986, 100 Stat. 1955, to subsecs. (a) to (e) of this section were not executed to text pursuant to Pub. L. 99-509, title VIII, § 8031(e)(2), which provided that the amendments made by section 8031 shall not take effect if the Superfund Amendments and Reauthorization Act of 1986 is enacted. The Superfund Amendments and Reauthorization Act of 1986 was enacted as Pub. L. 99-499, approved Oct. 17, 1986.

AMENDMENTS

2022—Subsec. (c)(2)(A). Pub. L. 117-169, § 13601(a)(2)(A), substituted “16.4 cents” for “9.7 cents”.

Subsec. (c)(3). Pub. L. 117-169, § 13601(a)(2)(B), added par. (3).

Subsec. (e). Pub. L. 117-169, § 13601(a)(1), struck out subsec. (e) which related to application of Hazardous Substance Superfund financing rate.

2020—Subsec. (f)(2). Pub. L. 116-260 substituted “December 31, 2025” for “December 31, 2020”.

2019—Subsec. (f)(2). Pub. L. 116-94 substituted “December 31, 2020” for “December 31, 2018”.

2018—Subsec. (f)(2). Pub. L. 115-123 substituted “December 31, 2018” for “December 31, 2017”.

2014—Subsec. (e)(2)(B). Pub. L. 113-295, § 221(a)(12)(I)(i), substituted “this section” for “section 59A, this section.”

Subsec. (e)(3)(A). Pub. L. 113-295, § 221(a)(12)(I)(ii), struck out “section 59A,” after “collected under” and comma after “rate”.

2008—Subsec. (c)(2)(B). Pub. L. 110-343, § 405(a)(1), substituted “is—” for “is 5 cents a barrel.” and added cl. (i) and (ii).

Subsec. (f)(1). Pub. L. 110-343, § 405(b)(2), substituted “paragraph (2)” for “paragraphs (2) and (3)”.

Subsec. (f)(2), (3). Pub. L. 110-343, § 405(b)(1), added par. (2) and struck out former pars. (2) and (3), which provided that the Oil Spill Liability Trust Fund financing rate would not apply if the unobligated balance in the Fund exceeded \$2,700,000,000 and that the Fund financing rate would not apply after Dec. 31, 2014.

2005—Subsec. (f). Pub. L. 109-58 reenacted heading without change and amended text generally. Prior to amendment, text read as follows:

“(1) IN GENERAL.—Except as provided in paragraph (2), the Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply after December 31, 1989, and before January 1, 1995.

“(2) NO TAX IF UNOBLIGATED BALANCE IN FUND EXCEEDS \$1,000,000,000.—The Oil Spill Liability Trust Fund financing rate shall not apply during any calendar quarter if the Secretary estimates that as of the close of the preceding calendar quarter the unobligated balance in the Oil Spill Liability Trust Fund exceeds \$1,000,000,000.”

1990—Subsec. (e)(1). Pub. L. 101-508, § 11231(a)(1)(B), substituted “January 1, 1996” for “January 1, 1992”.

Subsec. (e)(2). Pub. L. 101-508, § 11231(a)(2), substituted “1993” for “1989” and “1994” for “1990” in introductory provisions and “1994” for “1990” and “1995” for “1991” in subpar. (B) and concluding provisions.

Subsec. (e)(3). Pub. L. 101-508, § 11231(b), substituted “\$11,970,000,000” for “\$6,650,000,000” in heading.

Subsec. (e)(3)(A). Pub. L. 101-508, § 11231(b), substituted “December 31, 1995” for “December 31, 1991”.

Subsec. (e)(3)(B). Pub. L. 101-508, §11231(a)(1)(B), (b), substituted “January 1, 1996” for “January 1, 1992” in heading and text and “\$11,970,000,000” for “\$6,650,000,000” in heading and twice in text.

1989—Subsec. (c)(2)(A). Pub. L. 101-221 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the Hazardous Substance Superfund financing rate is—

“(i) except as provided in clause (ii), 8.2 cents a barrel, and

“(ii) 11.7 cents a barrel in the case of the tax imposed by subsection (a)(2), and”.

Subsec. (c)(2)(B). Pub. L. 101-239, §7505(b), substituted “5 cents” for “1.3 cents”.

Subsec. (f). Pub. L. 101-239, §7505(a)(1), amended subsec. (f) generally, substituting pars. (1) and (2) for former pars. (1) general applicability, (2) commencement date, and (3) limit on tax of \$300,000,000.

1988—Subsec. (f)(2)(B). Pub. L. 100-647 substituted “December 31, 1990” for “September 1, 1987”.

1986—Subsecs. (a), (b)(1). Pub. L. 99-499, §512(a), substituted “at the rate specified in subsection (c)” for “of 0.79 cent a barrel”.

Subsec. (c). Pub. L. 99-509, §8032(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows:

“(1) IN GENERAL.—Except as provided in paragraph (2), the rate of the taxes imposed by this section is 8.2 cents a barrel.

“(2) IMPORTED PETROLEUM PRODUCTS.—The rate of the tax imposed by subsection (a)(2) shall be 11.7 cents a barrel.”

Pub. L. 99-499, §512(b), added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (d). Pub. L. 99-499, §512(b), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 99-509, §8032(c)(1), substituted “Hazardous Substance Superfund financing rate” for “taxes” in heading, substituted “the Hazardous Substance Superfund financing rate under this section” for “the taxes imposed by this section” in par. (1), inserted “(to the extent attributable to the Hazardous Substance Superfund financing rate)” after “this section” in pars. (2) and (3)(A), and substituted “the Hazardous Substance Superfund financing rate under this section shall not apply” for “no tax shall be imposed under this section” in par. (3)(B).

Pub. L. 99-499, §§511(a), 512(b), amended subsec. (d) generally and redesignated it as (e). Prior to amendment and redesignation, subsec. (d), termination, read as follows: “The taxes imposed by this section shall not apply after September 30, 1985, except that if on September 30, 1983, or September 30, 1984—

“(1) the unobligated balance in the Hazardous Substance Response Trust Fund as of such date exceeds \$900,000,000, and

“(2) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that such unobligated balance will exceed \$500,000,000 on September 30 of the following year if no tax is imposed under section 4611 or 4661 during the calendar year following the date referred to above, then no tax shall be imposed by this section during the first calendar year beginning after the date referred to in paragraph (1).”

Subsec. (f). Pub. L. 99-509, §8032(c)(2), added subsec. (f).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117-169, title I, §13601(c), Aug. 16, 2022, 136 Stat. 1982, provided that: “The amendments made by this section [amending this section and section 9507 of this title] shall take effect on January 1, 2023.”

EFFECTIVE DATE OF 2020 AMENDMENT

Pub. L. 116-260, div. EE, title I, §117(b), Dec. 27, 2020, 134 Stat. 3051, provided that: “The amendment made by

this section [amending this section] shall apply on and after January 1, 2021.”

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116-94, div. Q, title I, §134(b), Dec. 20, 2019, 133 Stat. 3234, provided that: “The amendment made by this section [amending this section] shall apply on and after the first day of the first calendar month beginning after the date of the enactment of this Act [Dec. 20, 2019].”

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-123, div. D, title I, §40416(b), Feb. 9, 2018, 132 Stat. 152, provided that: “The amendment made by this section [amending this section] shall apply on and after the first day of the first calendar month beginning after the date of the enactment of this Act [Feb. 9, 2018].”

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. B, title IV, §405(a)(2), Oct. 3, 2008, 122 Stat. 3860, provided that: “The amendment made by this subsection [amending this section] shall apply on and after the first day of the first calendar quarter beginning more than 60 days after the date of the enactment of this Act [Oct. 3, 2008].”

Pub. L. 110-343, div. B, title IV, §405(b)(3), Oct. 3, 2008, 122 Stat. 3861, provided that: “The amendments made by this subsection [amending this section] shall take effect on the date of the enactment of this Act [Oct. 3, 2008].”

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-221, §8(b), Dec. 12, 1989, 103 Stat. 1891, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of enactment of this Act [Dec. 12, 1989].”

EFFECTIVE DATE OF 1986 AMENDMENTS

Pub. L. 99-509, title VIII, §8032(d), Oct. 21, 1986, 100 Stat. 1959, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 4612, 4661, 4671, and 9507 of this title] shall take effect on the commencement date (as defined in [former] section 4611(f)(2) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as added by this section).

“(2) COORDINATION WITH SUPERFUND REAUTHORIZATION.—The amendments made by this section shall take effect only if the Superfund Amendments and Reauthorization Act of 1986 [Pub. L. 99-499, approved Oct. 17, 1986] is enacted.”

[Pub. L. 101-239, title VII, §7505(d)(1), Dec. 19, 1989, 103 Stat. 2363, provided that: “For purposes of sections 8032(d) and 8033(c) of the Omnibus Budget Reconciliation Act of 1986 [Pub. L. 99-509, set out as notes above and under section 9509 of this title], the commencement date is January 1, 1990.”]

Pub. L. 99-499, title V, §511(c), Oct. 17, 1986, 100 Stat. 1761, provided that: “The amendments made by this section [amending this section and repealing section 9653 of Title 42, The Public Health and Welfare] shall take effect on January 1, 1987.”

Pub. L. 99-499, title V, §512(d), Oct. 17, 1986, 100 Stat. 1761, provided that: “The amendments made by this section [amending this section and section 4612 of this title] shall take effect on January 1, 1987.”

EFFECTIVE DATE

Pub. L. 96-510, title II, §211(c), Dec. 11, 1980, 94 Stat. 2801, provided that: “The amendments made by this

section [enacting subchapters A and B of this chapter] shall take effect on April 1, 1981.”

SHORT TITLE

For short title of title II of Pub. L. 96-510 as the “Hazardous Substance Response Revenue Act of 1980”, see Short Title of 1980 Amendment note, set out under section 1 of this title.

§ 4612. Definitions and special rules

(a) Definitions

For purposes of this subchapter—

(1) Crude oil

The term “crude oil” includes crude oil condensates and natural gasoline.

(2) Domestic crude oil

The term “domestic crude oil” means any crude oil produced from a well located in the United States.

(3) Petroleum product

The term “petroleum product” includes crude oil.

(4) United States

(A) In general

The term “United States” means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(B) United States includes continental shelf areas

The principles of section 638 shall apply for purposes of the term “United States”.

(C) United States includes foreign trade zones

The term “United States” includes any foreign trade zone of the United States.

(5) United States refinery

The term “United States refinery” means any facility in the United States at which crude oil is refined.

(6) Refineries which produce natural gasoline

In the case of any United States refinery which produces natural gasoline from natural gas, the gasoline so produced shall be treated as received at such refinery at the time so produced.

(7) Premises

The term “premises” has the same meaning as when used for purposes of determining gross income from the property under section 613.

(8) Barrel

The term “barrel” means 42 United States gallons.

(9) Fractional part of barrel

In the case of a fraction of a barrel, the tax imposed by section 4611 shall be the same fraction of the amount of such tax imposed on a whole barrel.

(b) Only 1 tax imposed with respect to any product

No tax shall be imposed by section 4611 with respect to any petroleum product if the person

who would be liable for such tax establishes that a prior tax imposed by such section has been imposed with respect to such product.

(c) Credit where crude oil returned to pipeline

Under regulations prescribed by the Secretary, if an operator of a United States refinery—

(1) removes crude oil from a pipeline, and

(2) returns a portion of such crude oil into a stream of other crude oil in the same pipeline,

there shall be allowed as a credit against the tax imposed by section 4611 to such operator an amount equal to the product of the rate of tax imposed by section 4611 on the crude oil so removed by such operator and the number of barrels of crude oil returned by such operator to such pipeline. Any crude oil so returned shall be treated for purposes of this subchapter as crude oil on which no tax has been imposed by section 4611.

(d) Credit against portion of tax attributable to oil spill rate

There shall be allowed as a credit against so much of the tax imposed by section 4611 as is attributable to the Oil Spill Liability Trust Fund financing rate for any period an amount equal to the excess of—

(1) the sum of—

(A) the aggregate amounts paid by the taxpayer before January 1, 1987, into the Deepwater Port Liability Trust Fund and the Offshore Oil Pollution Compensation Fund, and

(B) the interest accrued on such amounts before such date, over

(2) the amount of such payments taken into account under this subsection for all prior periods.

The preceding sentence shall also apply to amounts paid by the taxpayer into the Trans-Alaska Pipeline Liability Fund to the extent of amounts transferred from such Fund into the Oil Spill Liability Trust Fund. For purposes of this subsection, all taxpayers which would be members of the same affiliated group (as defined in section 1504(a)) if section 1504(a)(2) were applied by substituting “100 percent” for “80 percent” shall be treated as 1 taxpayer.

(e) Income tax credit for unused payments into Trans-Alaska Pipeline Liability Fund

(1) In general

For purposes of section 38, the current year business credit shall include the credit determined under this subsection.

(2) Determination of credit

(A) In general

The credit determined under this subsection for any taxable year is an amount equal to the aggregate credit which would be allowed to the taxpayer under subsection (d) for amounts paid into the Trans-Alaska Pipeline Liability Fund had the Oil Spill Liability Trust Fund financing rate not ceased to apply.

(B) Limitation

(i) In general

The amount of the credit determined under this subsection for any taxable year